

**FLATHEAD COUNTY PLANNING BOARD  
WHITEFISH ZONING WORKSHOP MINUTES  
OCTOBER 29, 2014**

**CALL TO  
ORDER**

A workshop of the Flathead County Planning Board was called to order at approximately 6:00 p.m. at the Flathead County Fairgrounds, South Expo Building in Kalispell, Montana. Board members present were, Noah Bodman, Jim Heim, Greg Stevens, Ron Schlegel, Tim Calaway Jeff Larsen and Marie Hickey-AuClaire. Gene Shellerud had an excused absence. BJ Grieve, Erik Mack and Rachel Ezell represented the Flathead County Planning & Zoning Office.

There were approximately 26 people in the audience.

**PRESENTATION  
BY COUNTY  
PLANNING  
STAFF**

Grieve briefly explained the role of the Planning Office and planning term definitions. He gave an in depth background of planning and zoning in the area around Whitefish, addressed the transition of rural Whitefish jurisdiction back to Flathead County, the purpose of this public workshop, what the process would be from this point on and how to stay informed and involved.

**PUBLIC  
COMMENT  
6:32 pm**

Dan Graves, CEO of Whitefish Mountain Resort, thanked the board for their time. He said the resort and the city had embarked on a large master plan for the area when Whitefish originally took over the former Whitefish City Inter-local agreement area (donut). An enormous amount of time and money had been spent on this plan for real estate development. The resort employs over 500 people in the winter and 150 in the summer. It was owned by 32 individuals with an investment in the resort. He asked the board to work through the process to understand their investment into the document and the master plan that was developed with the city of Whitefish. They had been working since march of 2006 on the master plan for development. They were talking about a very large investment by 32 individual shareholders and the livelihood of over 500 people.

Betty Luke, 705 Blanchard Lake Road, asked why the zoning on the east side of Blanchard Lake Road was in small parcels where they were zoned agricultural and they themselves could not divide their property into smaller acreage.

Grieve clarified where she resided.

Hickey-AuClaire was unable to answer the question but said there were others who may be able to.

Grieve said there would need to be follow up with an answer.

Charles Davis, 205 Barnes Lane, he realized part of the process was constrained by the two year deadline. He appreciated the effort the board was putting into this issue. He and his wife were satisfied with their interim zoning. The area where they lived had become increasingly residential over the last several years. He wanted to make the zoning protected their investment for property values. His property rights stopped at his neighbor's property line and vice versa. For practical reasons there had to be a body such as the Planning and Zoning Office or the county commissioners to arbitrate potential disputes. If zoning could be made consistent over as large of an area as possible, those conflicts could be resolved easily. He thanked the board for their time.

Roger Wagner, 2104 Houston Drive, gave a history of zoning in 1977 of the Houston Lakeshore tracts. He asked how the zoning matched up between the county and Whitefish zoning. He said the board was doing well with a difficult situation. He gave a history of zoning in the area.

Stevens asked if there was Whitefish city water and sewer in the Houston Lakeshore Tracts.

Wagner said he did not have Whitefish City water and sewer, however there were a couple of property owners who had put their own in.

Stevens asked if they were annexed into the city.

Wagner said he could not answer that for sure. There was some type of a deal with the city.

Stevens said he did not know the answer to Wagner's question, but he would say if he didn't have Whitefish City water and sewer, he would not be faced with development of lots less than an acre. The DEQ had certain regulations for drain fields.

Wagner was concerned about the size of the lots.

Stevens asked how large Wagner's lots were.

Wagner said his was one of the larger lots. He had wanted to see how the different designations looked side by side.

Calaway and Stevens discussed where Whitefish City and Water ran and their hookup fees.

Lew Patterson, 2095 East Edgewood, had 30 acres in the donut area. He gave the history of the property and what it was zoned. He did not want the city of Whitefish to have any jurisdiction over his property at all. The reason he bought the property was because it was county. He did not want the city to tell him what he could do with it.

Eugene Lamb, 1535 Karrow Ave, had lived on his property since 1950. He did not want the city to tell him what he could or could not do with his property. It was difficult to make money off of AG-10. He explained why the city had control over one side of Karrow Avenue and not the other.

Yvonne May, 5465 Hwy 93 South, asked if there was a way to submit comments online.

Grieve said there was a comment box for people who did not want to speak.

Grieve and May discussed the different ways to submit public comment and what happens with the comments.

Cal Dyck, 1277 Hodgson Road, if a person had property which was zoned differently prior to the change would there be open dialog to determine what zone the property would be zoned. He thanked the board for taking the donut area back over.

Mollie Busby, 450 Haugen Heights Road, said she was new to the area. Her question was what the possibilities for nightly rentals were.

Hickey-AuClaire clarified she was asking about a vacation rental by owner.

Grieve said the zones which existed did not accommodate rentals under 30 days. The planning board had been maintaining a list of issues which needed a closer look. He elaborated issues the board was dealing with and zones which did allow for nightly

rentals which were in Bigfork and CALURS area.

Rebecca Norton, 530 Scott Ave, asked if they were the only jurisdiction in the state of Montana who did not have an extraterritorial planning jurisdiction. She said Kalispell and Columbia Falls had one.

Mack clarified Kalispell did not have an extraterritorial planning jurisdiction.

Norton asked if the public could have a list of all the laws which passed under Whitefish jurisdiction that are now gone under County jurisdiction. When she had sat in on a meeting, there were 65 laws no longer valid. Dark skies, water protection laws, could they have a list of the laws which made Whitefish what it is that are now gone. She thought a lot of times the community doesn't realize what was going to happen when the county doesn't regulate as much as what had been regulated. She gave the example of billboards. She felt as things changed, the public should know why this was why Whitefish had those laws. IF they could even figure that out. Could the public have a clear list of how the county protects our lakes, rivers, aquifers, urban forests, trees and how they are actually going to protect their aquifer because Whitefish had pretty stringent laws around that which have now been taken away in the county? She would like people to know what they were giving up if this proceeds without a nice transition. Has the county received any current requests for zone one zoning in the county under this interim zoning? Which meant anyone who owns forty acres can apply to have their own freestanding zoning and no one could stop them. So someone could end up with a free standing resort next to their property. She asked how people would know when and where the meetings were to be held because they would have an interest if something was going on in their area. Why is the board not talking about representation in the donut? What did representation mean now that the county had the donut? During the discussions about the donut area, there were actual proposals for representation in the donut area and she gave examples. She felt a lot of this situation was misleading to the public and she felt before it went any further, the public should know what was being changed and how to access that information.

## **PLANNING BOARD**

Hickey-AuClaire suggested staff offer answers to some of the questions raised during public comment.

## **DISCUSSION**

**6:58 pm**

Grieve said Mr. Wagner had called the office earlier today about the Houston Lakeshore Tracts so staff had a chance to look into Resolution 251. The zoning was adopted in 1977 than in 1992 that zoning district was rescinded. It was not replaced, it was rescinded. Then the city went out with their zoning and zoned the area. It has since then been converted from a W zone to an R-1 and R-2 zoning. R-1 had a one acre minimum lot size and R-2 had a half acre minimum lot size. This was the closest zoning with the minimum lot size.

Grieve addressed Mr. Dyck's question concerning an open dialog to find out the closest zoning. Dyck was in an unzoned area and outside the inter-local agreement area. The Planning Board at this time had enough to do about area in the donut and was not considering land outside the donut. This issue may have been a little confusing since postcards had been sent to people outside the donut area, but it was to error on the side of caution. Any workshops from this time on would be public workshops. He gave options for staying current with information of the process. There was most likely not going to be any more postcards. He reviewed the area which was targeted for the mailing.

Grieve said he could try to tackle some of Ms. Norton's questions. Some of them seemed rhetorical. Were we the only ones without extraterritorial planning jurisdiction? No, Kalispell had no jurisdiction outside city limits. Can the public have a list of all laws Whitefish passed which would be no longer under the county? If it was a Whitefish law, she could get a list from the city of Whitefish. He knew the list had been created and he had seen a similar list about two years ago. From those two years on, she could request the information from Whitefish.

Norton asked how to make that information part of the public record.

Grieve said she could submit the office the list and they would forward it to the Planning Board. Can the public have a clear list of how the county protects lakes, trees, aquifers, etc? He gave examples of different agencies that held information on different topics. The Flathead County Planning and Zoning office held the county wide Growth Policy, regional geography specific plans such as neighborhood plans, Subdivision Regulations, Zoning Regulations and the Flathead County Lake and Lakeshore Regulations, Floodplain Regulations. He explained how they all

had mechanisms to protect the concerns voiced by Norton. Has the county received any part one zoning requests since interim zoning has been in place? Not at this time. Why are we not talking about representation in the county? All he could speak to was the County commissioners were elected by the people, the commissioners appointed the Planning Board and they were here to listen to the people in attendance at this workshop.

Norton said this is what we end up with is this board?

Grieve said yes. This was a board of volunteers who hold meetings and come to workshops like this one for the sake of public service. They were appointed by the commissioners and the people in rural Whitefish elect the commissioners so this is representation because you are now providing feedback to a group that is appointed by the people you elected and if you don't like the people you appointed, you can change your vote so that was representation. What about the different models for representation? He could not speak to that. Again, the research was out there and if people wanted to provide that to the board, it could be tracked down. He was happy to answer any other questions for the board in any format they wanted.

Calaway spoke about spot zoning, zone changes and how they happened. He also spoke about how the surrounding neighbors were notified if things were happening next to them.

Hickey-AuClaire clarified with Grieve the notifying buffer for projects and what applications qualified for notification.

Grieve explained where the 150' buffer came from.

Calaway asked Grieve to discuss what part one zoning entailed.

Grieve explained in depth the process for part one zoning.

Larsen said they may create the zoning district, the commissioners had to approve the creation. It was not automatic. Type one zoning was a legal part of zoning in the state of Montana. He explained other regulations which needed to be complied with and he listed and explained them.

Davis asked if one property owner who owns more than 40 acres could apply for type one zoning.

Bodman said to keep in mind part one zoning was a different animal than part two zoning. There are some counties in Montana which use part one zoning exclusively or at least more heavily than Flathead County does. One of the benefits were they did not need to adopt a countywide Growth Policy. If the county wanted to go that way and be more efficient, they could go that way and address each individual area under the part one framework. Flathead County had adopted the countywide Growth Policy which involved a ton of work to draft the document. That enabled them to do part two zoning, which could not be done if the growth policy was not in place. Some of the incentives for part one zoning which exist elsewhere in the state do not necessarily exist in Flathead County because there was the ability to do part two zoning. He thought Gallatin and Ravalli counties did part one zoning.

Grieve said if Ravalli did any zoning, it would have to be part one because they did not have a Growth Policy.

Bodman said to also keep in mind with part one zoning, there were a whole different set of statutes which applied. He summarized some of the differences. There was plenty of land which they were looking at which was unzoned. Those owners could do what they wanted on their property.

Grieve clarified on the map what was unzoned.

Hickey-AuClaire asked if there were any other issues for discussion by the board.

Grieve asked the members of the public to sign in and place a dot on the map as to where their property was which was helpful. He explained the next steps and said the office was available for any questions.

**ADJOURNMENT** The workshop was adjourned at approximately 7:15 pm.

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Marie Hickey-AuClaire, Chairman

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Donna Valade, Recording Secretary

*APPROVED AS **SUBMITTED**/CORRECTED: 1 / 14 / 15*

Flathead County  
Rural Whitefish Planning & Zoning Jurisdiction Transition  
Option Analysis Matrix<sup>1</sup>

<b>Option:</b>	1) Take no action, allow interim zoning to expire. <sup>2</sup>				2) During term of interim zoning, pursue planning process to update 1996 Whitefish City-County Master Plan. <sup>3</sup>			3) During term of interim zoning, pursue planning process to update 1996 Whitefish City County Master Plan using current city-adopted 2007 Whitefish Growth Policy as starting point. <sup>4</sup>		
<b>Sub-Option:</b>	1a) After expiration of interim zoning, repeal current county adopted 1996 Whitefish City-County Master Plan. Rely on Flathead County Growth Policy for land use decisions.	1a-i <sup>8</sup> ) Prior to expiration of interim zoning, repeal 1996 Whitefish City-County Master Plan then possibly amend Flathead County Growth Policy to add future land use map from 2007 Whitefish Growth Policy and revise text as needed. Replace interim zoning with county Part 2 zoning classifications based on Growth Policy.	1b) After expiration of interim zoning, only administer plans and zoning adopted by Flathead County Commissioners. <sup>5</sup>	1c) After expiration, allow only Part 1 zoning applications/amendments. Part 1 zoning does not require compliance with a neighborhood plan or growth policy, only description of a “development pattern” for each district. <sup>6</sup>	2a) Use 1996 plan “as-is.” Replace interim zoning with existing county Part 2 zoning classifications consistent with this plan. <sup>7</sup>	2b) Update 1996 plan, limit scope of update to future land use map and associated text within plan. Replace interim zoning with existing county Part 2 zoning classifications consistent with this updated plan.	2c) Update 1996 plan, do not limit scope and create updated plan with format and content that suits rural Whitefish for 20-year planning horizon. Replace interim zoning with existing county Part 2 zoning classifications consistent with this updated plan.	3a) Review/adopt 2007 plan “as-is.” Replace interim zoning with existing county Part 2 zoning classifications consistent with this plan.	3b) Modify 2007 plan, limit scope of update to adopting future land use map and associated text and remove portions not workable and/or desirable to rural residents. Replace interim zoning with existing county Part 2 zoning classifications consistent with this updated plan.	3c) Choose option 3a or 3b, then implement with new, special county Part 2 zoning classifications adopted to match permitted uses and bulk and dimensional requirements of “W” zoning in place at end of interlocal agreement.
<b>Pros:</b>	<ul style="list-style-type: none"><li>• Eliminates plan and planning processes that are typical source of allegations of errors in a litigation-prone situation.</li><li>• Reduces long-term demand on county planning resources.</li></ul>	<ul style="list-style-type: none"><li>• Allows use of Whitefish’s Future Land Use Map (upon which present zoning is based) without adopting entire 2007 Whitefish Growth Policy.</li><li>• Avoids more time consuming plan review processes in Options 2 of 3.</li></ul>	<ul style="list-style-type: none"><li>• Least demand on county planning resources.</li><li>• Those who had their property zoned by Whitefish with a “W” zoning classification and did not support the zoning would be unzoned or revert to county zoning.</li></ul>	<ul style="list-style-type: none"><li>• No updating or adoption of a broad community plan required prior to consideration of individual Part 1 districts.</li><li>• Landowner support would be required, 60% of landowners in an area 40 acres or more in size.</li></ul>	<ul style="list-style-type: none"><li>• Allows quickest adoption of a permanent replacement for current interim zoning using existing Part 2 zoning classifications.</li><li>• Uses entire 1996 plan jurisdiction.</li></ul>	<ul style="list-style-type: none"><li>• Process of updating an existing plan is clearly outlined in Part 4 of Chapter 11 of Growth Policy.</li><li>• Likely achievable within two-year interim zoning lifespan.</li><li>• Addresses planning in entire 1996 plan jurisdiction.</li></ul>	<ul style="list-style-type: none"><li>• Process of updating an existing plan is clearly outlined in Part 4 of Chapter 11 of Growth Policy.</li><li>• Addresses planning in entire 1996 plan jurisdiction.</li><li>• Optimal outcome is a plan that may serve rural Whitefish for many years.</li></ul>	<ul style="list-style-type: none"><li>• Minimizes demand on county planning resources since plan exists.</li><li>• Recognizes work done by community in 2007.</li><li>• Adopts zoning close to what was there, without “Special Provisions” of Whitefish’s zoning that created controversy.</li></ul>	<ul style="list-style-type: none"><li>• Uses public process to identify and eliminate or revise controversial policies of 2007 plan.</li><li>• Adopts zoning close to what was there, without “Special Provisions” of Whitefish’s zoning that created controversy.</li></ul>	<ul style="list-style-type: none"><li>• Provides for most consistent land use regulations with what existed under Whitefish’s jurisdiction.</li><li>• Most compatible with adjacent municipality’s urban growth and zoning, required by 76-2-203 M.C.A.</li></ul>
<b>Cons:</b>	<ul style="list-style-type: none"><li>• Eliminates detailed guidance for future land use decision making in rural Whitefish area.</li></ul>	<ul style="list-style-type: none"><li>• Permanent Part 2 zoning to replace interim zoning wouldn’t be based on a separate local plan.</li><li>• Flathead County Growth Policy contains broad goals and policies with opportunity for debate over meaning/applicability to very specific areas.</li></ul>	<ul style="list-style-type: none"><li>• Areas that were amended to a “W” zone from a county zone would go back to county zone, creating non-conforming uses.</li><li>• Those who supported the “W” zoning on their property and/or may have pursued zone changes, PUDs or permits under “W” zoning would now be unzoned.</li></ul>	<ul style="list-style-type: none"><li>• Significant administrative challenges associated with adding Part 1 zoning districts to existing Part 2 zoning regulations. Separate rules and standards, separate revenues and expenditures sources to track, separate planning and zoning commissions, etc., all for each district.</li></ul>	<ul style="list-style-type: none"><li>• 1996 plan is dated and doesn’t reflect many existing conditions and/or current projected trends.</li><li>• Many current zones and/or zoning amendments adopted under Whitefish’s jurisdiction may be “downzoned” to comply with this plan.<sup>7</sup></li></ul>	<ul style="list-style-type: none"><li>• Doesn’t allow for full inventory of existing characteristics, projected trends, available public services and infrastructure, etc. in 2014. Plan remains somewhat dated.</li><li>• Requires more county planning resources (staff and Planning Board) than some other options.</li></ul>	<ul style="list-style-type: none"><li>• Achieving scope of work will require substantial county planning resources (staff and Planning Board) and a public/political will to progress quickly through process.</li><li>• May still not be achievable within two-year interim zoning lifespan.</li></ul>	<ul style="list-style-type: none"><li>• Many policies of 2007 plan controversial to rural landowners.</li><li>• Plan jurisdiction boundary not the same as 1996 plan, would need to be expanded or would create a doughnut of 1996 boundary.</li><li>• Current county zoning classifications are still different than Whitefish’s previous “W” classifications.</li></ul>	<ul style="list-style-type: none"><li>• Plan jurisdiction boundary not the same as 1996 plan, would need to be expanded or would create a doughnut of 1996 boundary.</li><li>• Current county zoning classifications are still different than Whitefish’s previous “W” classifications.</li></ul>	<ul style="list-style-type: none"><li>• Adopting new “special” zones into text of Flathead County Zoning Regulations takes more time in addition to plan update and zoning map adoption.</li><li>• “Special” zones can introduce challenges with consistency and interpretation. Ex. Ashley Lake, North Fork, etc.</li></ul>
<b>Follow-up question or issue created by option:</b>	<ul style="list-style-type: none"><li>• Repeal of 1996 plan may not comply with Goals 46 and/or 49 of Growth Policy.</li></ul>	<ul style="list-style-type: none"><li>• Review Growth Policy to ensure proposed amendments will retain internal consistency of document.</li></ul>	<ul style="list-style-type: none"><li>• Significant concerns from parties that pursued zone changes or got permits with zoning in place.</li></ul>	<ul style="list-style-type: none"><li>• Research how to administer/enforce multiple Part 1 zoning districts.</li></ul>			<ul style="list-style-type: none"><li>• What happens at end of 2 years if project is not complete?</li></ul>	<ul style="list-style-type: none"><li>• Since 2007 plan is not listed as an “existing” plan in Part 4 of Chapter 11 of Growth Policy, process to use is not as clear as using 1996 plan.</li></ul>	<ul style="list-style-type: none"><li>• Since 2007 plan is not listed as an “existing” plan in Part 4 of Chapter 11 of Growth Policy, process to use is not as clear as using 1996 plan.</li></ul>	



<sup>1</sup>The purpose of this document is to inform rural Whitefish landowners, Flathead County decision makers and the general public about some of the options that were discussed at Planning Board public workshops on October 01 and October 15, 2014 and that are currently available for planning and zoning in the rural areas outside the city of Whitefish at the end of the term of the current interim zoning. This analysis was originally requested by the Flathead County Planning Board at the October 01, 2014 public workshop. It was prepared by planning staff and given to the Planning Board on October 08, 2014 and posted on the planning office’s website on October 09, 2014. At the October 15, 2014 public workshop, after public comment and board discussion, the board requested staff add Option 1a-i (see footnote #8 below). This additional option was added by planning staff on October 16, 2014 and the revised analysis was re-posted to the planning office’s website on October 16, 2014. This document is intended to serve as an informational starting point for discussion, public participation and additional research. Given the unprecedented nature of the rural Whitefish area jurisdiction transition, in order to create this document and present options, some assumptions had to be made.

For those unfamiliar with planning terminology, plans referenced herein (such as the county wide Flathead County Growth Policy, the 1996 Whitefish City County Master Plan and the 2007 Whitefish Growth Policy) are non-regulatory documents that generally outline a community vision for the future, inventory existing characteristics of a community, present projected growth trends, and establish goals for how growth should occur within the plan’s jurisdiction. Policies regarding such things as location of growth, public services and infrastructure to serve growth, and environmental impacts of growth are typically set forth in a plan to guide decision makers over time and help achieve the goals. Communities are not required to adopt plans, but if a community chooses to adopt plans, they must be made and adopted according to state laws. These laws are found in 76-1-601 et. seq., M.C.A. Since plans are non-regulatory, they are implemented using regulatory methods (regulatory means those for which an enforcement mechanism is authorized if violated, such as a misdemeanor) such as subdivision regulations and zoning regulations. Zoning is regulatory, and Part 2 zoning must be made in accordance with, or implement, the stated goals and policies of a plan. See footnote 6 below for an important explanation of differences between Part 1 and Part 2 zoning in rural areas.

<sup>2</sup>The current interim zoning was adopted September 09, 2014 pursuant to Resolution #2394 and will expire at the end of one year. The Commissioners may extend the interim zoning for up to one additional year. The interim zoning was adopted to most closely replicate the permitted land uses and bulk and dimensional requirements of the “W” zoning that was adopted by the Whitefish City Council outside of city limits prior to and during the period of the Interlocal Agreement.

<sup>3</sup>The 1996 Whitefish City County Master Plan was adopted jointly by the Flathead County Commissioners and Whitefish City Council on February 06, 1996 and February 20, 1996 (respectively). This is the local plan for the rural Whitefish area referenced in Part 4 of Chapter 11 of the Flathead County Growth Policy. The 1996 plan boundary extends approximately 4½ miles outside Whitefish city limits as they existed at that time.

<sup>4</sup>The 2007 Whitefish Growth Policy was adopted by the Whitefish City Council in November 2007 and at that time applied to areas within city limits and within the interlocal agreement boundary. The interlocal agreement boundary was *approximately* 2 miles from Whitefish city limits as they existed in 2005. This 2007 Whitefish Growth Policy was not adopted by the Flathead County Commissioners for areas outside Whitefish city limits.

<sup>5</sup>Under this option/scenario, the 1996 Whitefish City County Master Plan and any county zoning adopted by the Flathead County Commissioners in the past would continue to exist. Zoning in areas that had been zoned with a “W” zone by the Whitefish City Council would cease to exist. “W” zoning within one mile of city limits that was passed by the Whitefish City Council prior to 2005 pursuant to 76-2-310 M.C.A. would not exist. County zones that were adopted by the Flathead County Commissioners in the past that have been amended by the Whitefish City Council to a different county zone or to a “W” zone would revert to the last zoning approved by the Commissioners.

<sup>6</sup>Under Montana law, there are two basic types of zoning that can be adopted in rural areas. Part 1 zoning is referred to as “citizen initiated” zoning. When 60% of the landowners in an area of 40 acres or more petition the county for zoning, the Commissioners may adopt it. Part 1 zoning districts each have a separate “Planning and Zoning Commission,” each would have separate regulatory standards, each have a separate levy within the district to pay for administration and enforcement of the zoning district, and are adopted to implement a separate “development pattern” identified for each district. Part 1 zoning is not specifically required to be made in accordance with a Growth Policy. See 76-2-101 et. seq., M.C.A. regarding details of “citizen initiated” Part 1 zoning. Currently, Flathead County only has one Part 1 zoning district in the Egan Slough area and because it has unique and separate regulatory standards and administrative requirements, it is not a part of the Flathead County Zoning Regulations. Part 2 zoning is the second type of zoning under Montana law and it is referred to as “county initiated” zoning. Part 2 zoning may be initiated by the Commissioners for purposes of “promoting the public health, safety, morals, and general welfare” of a jurisdictional area and must be made in accordance with a growth policy or plan. The current Flathead County Zoning Regulations are adopted under Part 2 zoning. See 76-2-201 et. seq., M.C.A. regarding details of “county initiated” Part 2 zoning.

<sup>7</sup>Pursuant to the criteria for adopting Part 2 zoning found in 76-2-203 M.C.A. and Section 2.08.040 of the Flathead County Zoning Regulations, zoning regulations must be made in accordance with the Growth Policy. The 1996 Whitefish City County Master Plan has been adopted as an element of the Flathead County Growth Policy. Therefore, any permanent zoning would have to comply with the 1996 plan and according to the Introduction, the plan is composed of two major components, the text and the map, that must be weighed equally (page 3). Since the 1996 plan was not updated by the county while the interlocal agreement was in place, some of the current zoning that was adopted by Whitefish in accordance with the 2007 Whitefish Growth Policy would not comply and could not be adopted under the current county 1996 plan.

<sup>8</sup>Option 1a-i added after Planning Board discussion at October 16, 2014 public workshop.

**Flathead County**  
**Whitefish & Lost Coon Lake and Lakeshore Jurisdiction Transition**  
**Option Analysis Matrix<sup>1</sup>**

<b>Option:</b>	1) Amend the <i>Flathead County Lake and Lakeshore Protection Regulations</i> <sup>2</sup> to include Whitefish and Lost Coon Lakes.	2) Option 1, then review, revise and update the <i>Flathead County Lake and Lakeshore Protection Regulations</i> <sup>2</sup> in next fiscal year.	3) Continue using Flathead County's <i>Whitefish Area Lake and Lakeshore Protection Regulations</i> <sup>5</sup> that were used prior to interlocal agreement.	4) Adopt Whitefish's <i>Whitefish Area Lake and Lakeshore Protection Regulations</i> <sup>6</sup> that Whitefish used during interlocal agreement.	5) Work with public and Whitefish to create new Whitefish & Lost Coon lakeshore regulations agreeable to both governing bodies, adopt separately.	6) Discuss with City of Whitefish a mutually agreeable arrangement to give city lakeshore jurisdiction for Whitefish and Lost Coon Lakes <sup>7</sup> .
<b>Pros:</b>	<ul style="list-style-type: none"> <li>• Efficient administration and enforcement for Flathead County.</li> <li>• Consistent with ~57 other lakes regulated in rural Flathead County<sup>3</sup>.</li> <li>• Allows resources to be focused on interim zoning replacement.</li> </ul>	<ul style="list-style-type: none"> <li>• Allows county to adopt best provisions for rural jurisdiction of multiple regulations and apply to all ~59 lakes.</li> <li>• End result is one updated set of regulations for all rural Flathead County.</li> </ul>	<ul style="list-style-type: none"> <li>• This is what Flathead County is doing now, no changes needed.</li> <li>• Maintains many unique provisions found in current City of Whitefish regulations since those regulations originated from this document.</li> </ul>	<ul style="list-style-type: none"> <li>• Provides for consistency across jurisdictions in an existing document, but only if adopted by county as written.</li> <li>• These are the most recently updated regulations unique to Whitefish and Lost Coon Lakes.</li> </ul>	<ul style="list-style-type: none"> <li>• Governing bodies can create one set of regulations with which they are both comfortable.</li> <li>• Most consistent option while maintaining separate jurisdictions.</li> <li>• If successful, promotes cooperation.</li> </ul>	<ul style="list-style-type: none"> <li>• Only option for 100% consistent regulations across Whitefish and Lost Coon Lakes because one jurisdiction is interpreting, administering, enforcing and amending.</li> <li>• Consumes least county resources.</li> </ul>
<b>Cons:</b>	<ul style="list-style-type: none"> <li>• Least consistent option with current City of Whitefish regulations.</li> <li>• Does not recognize unique history and cultural identity of Whitefish Lake.</li> <li>• Last updated 12 years ago. However, see Option #2.</li> </ul>	<ul style="list-style-type: none"> <li>• Requires county resources allocated to review and update at same time as county is working to replace interim zoning (could use consultant for lakeshore update).</li> <li>• Increases demand on Planning Board time over next 1-2 years.</li> </ul>	<ul style="list-style-type: none"> <li>• Not consistent with current City of Whitefish regulations used inside city limits.</li> <li>• Long term costs for two sets of lakeshore regulations.</li> <li>• Some provisions hard to enforce.</li> <li>• Needs update to jurisdictional references.</li> </ul>	<ul style="list-style-type: none"> <li>• Some 2009 revisions hard to enforce in rural area.</li> <li>• Any edits by county, or any future amendments not adopted by both jurisdictions result in inconsistent regulations.</li> <li>• Reviewing &amp; revising consumes county resources.</li> </ul>	<ul style="list-style-type: none"> <li>• Extremely time and resource consumptive for both jurisdictions.</li> <li>• No guarantee efforts will be successful. History shows very different political wills.</li> <li>• Future amendments by one governing body may not be adopted by other.</li> </ul>	<ul style="list-style-type: none"> <li>• Current political climate creates challenges with establishing cooperative agreements.</li> <li>• Discussions may simply not yield a mutually agreeable scenario, resulting in wasted time.</li> </ul>
<b>Follow-up question or issue created by option:</b>	• Impact of Whitefish's annexation of lake bottom <sup>4</sup> ?	• Impact of Whitefish's annexation of lake bottom <sup>4</sup> ?	• Status of WF Lakeshore Protection Committee?	• Status of WF Lakeshore Protection Committee?	• Status of WF Lakeshore Protection Committee?	• Representation for rural lakefront landowners.

<sup>1</sup>The purpose of this document is to inform Flathead County decision makers and the public about some options that are currently available for regulating Whitefish and Lost Coon Lakes, per 75-7-207 M.C.A. The document is intended to serve as an informational starting point for discussion and public participation.

<sup>2</sup>Adopted by the Flathead County Board of Commissioners April 13, 1982. Covered all lakes in Flathead County until separate regulations were created for Whitefish and Lost Coon Lakes in 1990 (see footnote #4 below). Most recently revised January 24, 2002. This document can be found on the Flathead County Planning and Zoning Office website at [http://flathead.mt.gov/planning\\_zoning/downloads.php](http://flathead.mt.gov/planning_zoning/downloads.php) (click on the folder labelled “Lake and Lakeshore Protection Regulations”).

<sup>3</sup>Per 75-7-203 M.C.A., the *Flathead County Lake and Lakeshore Protection Regulations* govern all lakes over 20 acres in size for at least 6 months in a year, presently including Blanchard Lake but excluding Whitefish and Lost Coon Lakes. According to Flathead County GIS, this applies to approximately 57 lakes in rural Flathead County.

<sup>4</sup>The City of Whitefish has annexed Whitefish Lake to the low water mark. Dock permits issued for rural properties may therefore be doing work inside city limits. Mayor John Muhlfeld raised this jurisdictional concern in a letter to the Commissioners on September 04, 2014.

<sup>5</sup>Adopted jointly by the Flathead County Commissioners on January 03, 1990 (Resolution #769) and the City of Whitefish On January 01, 1990 (Ordinance #89-12) as a separate set of lakeshore regulations governing Whitefish and Lost Coon Lakes. Administered by Flathead County for rural properties on Whitefish and Lost Coon Lakes until February 01, 2005 (effective date of Interlocal Agreement) and then again starting on July 15, 2014 (effective date of Montana Supreme Court ruling terminating Interlocal Agreement). This document can be found on the Flathead County Planning and Zoning Office website at [http://flathead.mt.gov/planning\\_zoning/downloads.php](http://flathead.mt.gov/planning_zoning/downloads.php) (click on the folder labelled “Lake and Lakeshore Protection Regulations”).

<sup>6</sup>After February 01, 2005 (effective date of Interlocal Agreement), the City of Whitefish continued to use the regulations that had been adopted jointly with Flathead County. However, subsequent amendments were not approved by Flathead County since the jurisdiction was solely Whitefish’s. The regulations were amended by Whitefish to include Blanchard Lake since that lake was inside the Interlocal Agreement area. In 2009, Whitefish adopted a significant revision to the regulations (Ordinance 09-08). These regulations are referred to as the *Whitefish Area Lake and Lakeshore Protection Regulations*. A link to this document can be found on the City of Whitefish website at <http://www.cityofwhitefish.org/planning-and-building/floodplain-development.php>.

<sup>7</sup>Per 75-7-214 M.C.A., governing bodies of lakes that are in two different jurisdictions are “empowered and encouraged,” but not required, to enter into agreements to establish compatible criteria.